

In re: Satoshi Watanabe
Serial No.: 10/052,687
Filed: January 18, 2002
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REMARKS

Claims 1-16 are pending in the application. Claims 1-16 stand rejected under 35 U.S.C. § 103(a) as being obvious. No amendments to the claims are made herein. An English translation of the foreign language priority document and the requisite statement regarding the accuracy of the translation is enclosed with these Remarks.

35 U.S.C. § 103(a) Rejection

Claims 1-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Inoue et al. (U.S. Patent No. 6,406,830). Applicants respectfully traverse this rejection.

The present application was filed on January 18, 2002 and claims priority to Japanese Patent Application No. 2001-012947, filed on January 22, 2001. A certified copy of the Japanese Patent Application No. 2001-012947 was filed with the USPTO by correspondence dated January 18, 2002. An English translation of the certified copy of the Japanese Patent Application is enclosed herewith in accordance with 37 C.F.R. § 1.55. The requisite statement that the translation of the certified copy is accurate is also enclosed.

The only reference cited in the 35 U.S.C. § 103(a) rejection is Inoue et al., which has a U.S. filing date of May 7, 2001. The filing date of Inoue et al. is after the January 22, 2001 priority date of the present application. As such, Inoue et al. does not constitute prior art from which a 35 U.S.C. § 103(a) obviousness rejection may be upheld. As stated in the M.P.E.P.:

The effective date of a domestic patent when used as a reference is not the foreign filing date to which the application for patent may have been entitled under 35 U.S.C. 119(a) during examination. *In re Hilmer*, 359 F.2d 859, 149 USPQ 480 (CCPA 1966).

Therefore, the date to be overcome under 37 C.F.R. 1.131 is the effective U.S. filing date, not the foreign priority date. *See, M.P.E.P. § 715.*

Inoue et al. does not qualify as a reference upon which the 35 U.S.C. § 103(a) rejection may be made because its U.S. filing date falls after the priority date of the application.

Applicants believe that the submission of the English translation of the certified copy of the Japanese Patent Application satisfies the requirements to establish the priority date of the

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present application earlier than the filing date of Inoue et al. Therefore, Inoue et al. is not a 35 U.S.C. § 103(a) reference and the pending claims are allowable. Applicants respectfully request the withdrawal of the obviousness rejections and the allowance of Claims 1-16.

CONCLUSION

The concerns of the Examiner addressed in full, Applicants respectfully request withdrawal of the outstanding rejections and the issuance of a Notice of Allowance forthwith. The Commissioner is hereby authorized any additional fee that may be due, or credit any refund, to Deposit Account No. 50-0220. The Examiner is encouraged to direct any questions regarding the foregoing to the undersigned, who may be reached at (919) 854-1400.

Respectfully submitted,

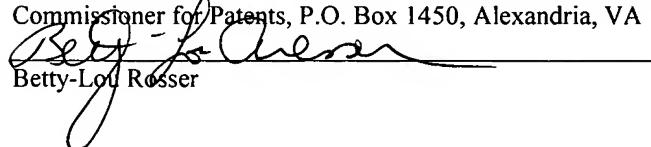


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I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop AF Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Betty-Lou Rosser